

Legislation Text

File #: Resolution 32-2017, **Version:** 1

Agenda Date: 08/01/2017**Subject:**

A resolution of the city council of the City of Littleton, Colorado, referring to the registered electors of the City of Littleton, Colorado, a question authorizing the city to retain and spend all taxes, grants and other revenues received in 2016 in excess of its revenue/expenditures limitation as provided in Article X, Section 20, of the Colorado Constitution, commonly known as Amendment one or the TABOR Amendment.

Presented By: Tiffany Hooten, Finance Director

POLICY QUESTION:

Does city council support referring a ballot question to registered electors authorizing the city to retain the 2016 TABOR excess revenue for capital projects?

BACKGROUND:

City council discussed this issue on July 25, 2017 and directed staff to prepare two resolutions with ballot questions relating to the Taxpayer's Bill of Rights (TABOR). One resolution is to retain the 2016 TABOR excess for capital projects and the second resolution is to adjust the base. Additionally, council directed staff to specify two capital projects to be funded if approved by voters: pavement improvement initiative for residential streets and intersection safety upgrades at Bowles Avenue and Federal Boulevard.

For the fiscal year ended December 31, 2016, Littleton's revenue exceeded the TABOR limit. The \$1,937,904 excess must be refunded in the following fiscal year unless voters approve a revenue change as an offset.

The city council must decide by the end of the year to either: 1) refund the excess revenue in some manner or, 2) ask voters to keep the money to spend on local projects or services.

TABOR, imposes revenue restrictions on state and local governments. A provision within TABOR allows voters to remove these restrictions, either temporarily or permanently. The permanent removal of TABOR revenue restrictions is commonly known as "de-brucing." There are very few municipalities in Colorado that are not permanently "de-bruced." Littleton is one.

The TABOR excess has many contributing factors. Revenue increases over 2015 in the general fund, as well as significant increases in impact fees and building use taxes all contributed to the TABOR excess. It is important to note that all eligible revenue received during 2016 ultimately contributed to the TABOR surplus.

In 2006, the city had a TABOR excess of \$1,119,484. The city elected to issue refunds to registered voters and property owners within the city in the amounts of \$20 and \$41.49, respectively. In all other TABOR excess years, 1994-1995, 1998, 1999-2001, 2002-2003, 2004 and 2007, council asked voters to approve TABOR excess revenue be used for capital improvements. A majority of Littleton voters supported each of these

requests. A full de-brucing failed to pass in 2006.

Projects that were funded by voter approval include significant safety improvements to Santa Fe Drive in cooperation with CDOT, the pedestrian underpass at the High Line Canal and County Line Road, purchase of open space, mini-parks and other recreation projects, Ketring Lake improvements, street improvements, upgrades to Fire Station #11, installation of a fire suppression system at Bemis Library, school zone signage conversion to fiber optics, improvements to the fire training burn building, and partial funding of fleet building improvements and museum expansion.

While there has been a considerable amount of interpretation of the TABOR amendment, no particular refund method or method is prescribed in TABOR or in subsequent legislation. This allows the refund method to be determined in almost any way possible. There is no case law requiring that refunds be made in an equitable manner, or returned to any particular source. The city is only required to refund the excess in some form or manner if the voters do not agree that it should be retained.

Ballot Language and TABOR Base

It's important to understand the impact to the city of an adjustment to the base versus no adjustment to the base.

The following table reflects the potential impact of an adjustment to the base calculated using the 2017 budgeted revenues and a growth factor of 3%. This is subject to change based on actual revenue.

	2016 Actual	2017 No Base Adjustment	2017 Base Adjustment
Base*	\$67	\$69	\$71.1
Revenues*	\$69	\$68.7	\$68.7
Excess/(Cushion)*	\$2	\$(0.3)	\$(2.4)

Estimated Growth Factor

3.00%

3.00%

**In millions*

While the estimate with no base adjustment indicates a “cushion” of approximately \$300,000, the city is likely to have a TABOR excess in 2017 and possibly in future years. If the base is adjusted, a TABOR excess is less likely to occur in 2017 and future years.

TABOR Schedule (Next Steps)

If council approves the resolution, then the next steps in the process include:

- August 15th - Intergovernmental Agreements (IGAs) with the three counties are considered by council in order to proceed with the election and the TABOR vote
- September 8th - Council considers certification of the ballot
- September 22nd - The Pro and Con statements are due.
- October 6th - Blue Book is published and distributed with the Pro and Con statements.

OPTIONS/ALTERNATIVES:

Council can approve the resolution referring a question to registered electors. If council does not refer the question to voters, the city would be required to refund the TABOR excess.

STAFF RECOMMENDATION:

Staff has no recommendation on this item.

PROPOSED MOTION:

I move to approve the resolution referring to the registered electors of the City of Littleton, Colorado, a question authorizing the city to retain and spend all taxes, grants and other revenues received in 2016 in excess of its revenue/expenditures limitation as provided in Article X, Section 20, of the Colorado Constitution, commonly known as Amendment one or the TABOR Amendment.